



Docket No.: LC-02-001

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCE**

In re Application of: Larry W. Collum, et al

Title: Golf Clubs and a Method for Using These Clubs for Golf Shots up to 100 Yards
From the Green

Serial No.: 10/604,787

Filing Date: 08/17/2003

Examiner: Stephen L. Blau

Group Art Unit: 3711

Mailstop Appeal Brief-Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

BRIEF ON APPEAL

Sir:

Further to the Notice of Appeal transmitted and received in the U.S.P.T.O. on 10/08/2008 and further to the petition for revival of the subject application which was granted on March 31, 2009, herewith are three copies of Appellants' Brief on Appeal. The \$270 fee for the filing of the Appeal Brief accompanies this brief. Applicant claims small entity status.

(1) REAL PARTIES IN INTEREST

The above-identified applicant, Larry W. Collum, and Charles Lazun are the real party in interest herein.

(2) RELATED APPEALS AND INTERFERENCES

Appellants and their legal representative are not aware of any related appeals or interferences which will directly affect or be directly affected by or have a bearing on the Board's decision in the instant appeal.

(3) STATUS OF THE CLAIMS

Claims rejected: 4

Claims allowed: none

Claims canceled: none

Claims withdrawn: 10

Claims added: 2

Claims on Appeal: Claims 4, 8, 9, 12, 15, 16

(4) STATUS OF AMENDMENTS AFTER FINAL

An amendment after Final Rejection was filed on January 11, 2007. This amendment was not entered due to the fact that the amendment was filed late and the instant application was deemed to have been abandoned.

Appellants petitioned for revival of the application due to the fact that abandonment was unintentional. Said petition was granted on March 31, 2009.

This appeal seeks *inter alia* to have aforesaid amendment after Final Rejection entered.

(5) SUMMARY OF CLAIMED SUBJECT MATTER

Appellants' claimed subject matter is directed to, *inter alia*, golf clubs and a method for using these golf clubs to propel a golf ball onto the "green" from distances up to 100 yards. More specifically, the invention is a series of unique golf clubs with wooden golf club heads displaying greater than normal and varying loft angles, greater than normal lie angles, shorter club shaft lengths, and a new method for using these unique golf clubs for performing "chip shots" or hitting a golf ball onto the putting surface or "green" from distances up to 100 yards using the same type of pendulum stroke or swing that is used when putting. This method is referred to as the "Two Stroke Pendulum Half Swing Motion" method throughout this application.

The game of golf generally involves three types of strokes or swings –

- 1) strokes used for long shots (teeing off, wood shots, and long iron shots);
- 2) strokes used for approach shots or "chip" or "wedge" shots onto the green; and
- 3) strokes used for "putting" the ball into the hole on the green.

Stroke 1) combines moderate to extreme leg, arm and wrist motion designed to propel the ball in varying arcs for moderate to long distances.

Stroke 2) combines slight forearm and wrist motion designed to propel the golf ball in relatively high arcs for distances up to about 100 yards.

Stroke 3) is generally a "pendulum" style stroke wherein the wrists and forearms are locked and motion is induced by a slight movement of the upper arms.

Each one of these strokes or swings must be mastered in order for an individual to be a proficient golfer. The uniquely designed golf clubs of the instant invention with wooden heads with

varying degrees of loft angle and lie angle coupled with the Two Stroke Pendulum Half Swing

Motion method of using these clubs for approach shots allows a golfer to eliminate the approach shot swing contemplated in Stroke 2) above. The golfer uses the same sort of “swing” used for putting for approach shots with these uniquely designed clubs.

Figure 1 shows the full club featuring the shorter shafts and wooden golf club heads with loft angles ranging from 34 to 55 degrees. The inventors developed three distinct clubs – the 38 degree loft angle club; the 44 degree loft angle club; and the 50 degree loft angle club. Figures 2 – 5 show closer views of the 50 and 44 degree loft angle clubs. Hundreds of these clubs are currently in use. Users have seen and agreed to the fact that by using a putting-style motion, they have been able to make approach shots to the green.

The subject matter of independent claims 4, 8, 9, and 12 as well as dependent claims 15 and 16 is explained and described in detail in paragraph 0007 of the specification. Independent claim 4 is the exact club that appellant has manufactured – the “38 degree club”. Independent claim 8 is another of the exact clubs that appellant has manufactured – the “44 degree club”. Independent claim 9 is a range of shaft lengths, lie angles, and loft angles centered about the third actual club that appellant has manufactured – the “50 degree club.” Independent claim 12 is the exact “50 degree club.”

Dependent claims 15 and 16 present variations of the “50 degree club” described in independent claim 9. The variations embodied in these dependent claims is also described and explained in detail in paragraph 0007 of the specification.

Claims 4, 8, 9, and 12 (all remaining claims) have been modified to overcome Examiner's objections and rejections. New claims 15 and 16 have been added to capture elements of rejected claims that were not rejected by the Examiner.

(6) GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Claims 4, 9, and 12 were allowed in Examiner's Office Action dated July 7, 2006.

Claim 8 was modified to overcome the rejection detailed in Examiner's Office Action dated July 7, 2006.

Claims 15 and 16 were added in accordance with Examiner's suggestion.

(7) ARGUMENT

There is no argument accompanying this appeal.

The only request is that the Amendment submitted on January 11, 2007 be admitted and examined by the Examiner.

(8) CLAIMS APPENDIX

Claims involved in the Appeal:

The following claims represent the claims that were submitted as part of the response to the Office Action that was submitted but not entered on January 11, 2007 due to Appellants' inadvertent late response to an Office Action.

Claim 4: A golf club comprising a golf club head and a metallic shaft where the loft angle is 38 degrees, the lie angle is 68 degrees, and the shaft length is 36.5 inches.

Claim 8 (currently amended): A golf club comprising a golf club head and a metallic shaft wherein the loft angle is 44 degrees, the lie angle is 68 degrees, and the shaft length is 36.5 inches.

Claim 9: A golf club comprising a golf club head and a metallic shaft wherein the loft angle ranges between 48 and 51 degrees, the lie angles range between 67 and 69 degrees, the club shaft length ranges between 36.0 and 37.5 inches.

Claim 12: A golf club comprising a golf club head and a metallic shaft where the loft angle is 50 degrees, the lie angle is 68 degrees, and the shaft length is 36.5 inches.

Claim 15 (added): A golf club as described in claim 9 where the golf club head is wooden and a plastic insert is placed in and adhesively attached to an indentation on the strike face of the wooden golf club head.

Claim 16 (added): A golf club as described in claim 9 where the golf club head is made of

persimmon.

(9) EVIDENCE APPENDIX

None.

(10) RELATED PROCEEDINGS APPENDIX

None.

Appellant respectfully submits that claims 4, 8, 9, and 12 should be allowed because the reasons for Examiner's rejection of earlier claims have been removed. Appellant furthermore respectfully submits that newly added claims 15 and 16 should be allowed because these claims embody unrejected elements of other claims that were previously properly rejected by Examiner. For these reasons it is respectfully submitted that these rejections are improper and it is requested that they be reversed.

Due to the urgency of this matter and its economic implications, an expedited review of this appeal is earnestly solicited.

If the USPTO determines that any additional fees are due, the Commissioner is hereby authorized to charge Richard L. Bigelow's Deposit Account No. **501470**.

Respectfully submitted,

Date: May 30, 2009

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